

# EXHIBIT 6

**IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA**

THE BANK OF NEW YORK MELLON, )

Plaintiff, )

v. )

CV: 2009-2318

JEFFERSON COUNTY, ALABAMA, *et al.*, )

Defendants. )

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**RECEIVER'S FIRST INTERIM REPORT  
ON FINANCES, OPERATIONS, AND RATES OF  
THE JEFFERSON COUNTY SEWER SYSTEM**

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## **I. Introduction.**

On September 22, 2010, this Court entered its Order (the “Receiver Order”) appointing John S. Young Jr., LLC (the “Receiver”), to serve as Receiver for the Jefferson County Sewer System (the “System,” as defined in the Receiver Order). The Receiver was appointed amidst and as a result of the County’s default on its obligations under the Trust Indenture and Supplemental Indentures entered into between 1997 and 2003 (the “Indenture”). This Court found that the County had “failed to operate the Sewer System in an economical, efficient and proper manner, and the public interest and the ends of justice will be best served by the appointment of a receiver.”<sup>1</sup>

The Receiver’s duty is to “effectively administer, operate, and protect the System.”<sup>2</sup> As such, the Receiver is not the representative or advocate of the County or its various creditor groups, but is instead an independent entity charged with the obligation to serve the interests of the System, the public, and this Court. Towards this end, this Court has bestowed upon the Receiver the full right and authority to perform any act the Receiver, in its independent business judgment, reasonably believes ought to be done or performed for the efficient administration, operation, and protection of the System.<sup>3</sup>

Among the specific powers granted the Receiver by the Court is the sole “power to fix and charge rates and to collect revenues sufficient to provide for the payment” of all System obligations and the expenses of operating and maintaining the System.<sup>4</sup> The Court’s goal in appointing the Receiver was to “stabilize the System finances and . . . implement significant operational improvements and efficiencies that will generate more System Revenues and more Net Revenues Available for Debt Service than [the County has] previously produced.”<sup>5</sup> The Court has granted the Receiver full power and authority to administer and operate the System, in a manner consistent with state and federal law.<sup>6</sup>

Prior to appointment of the Receiver, John S. Young, Jr. (the sole member and chief executive officer of the Receiver), served as one of two special masters appointed in connection with federal court litigation<sup>7</sup> arising out of the County’s default under the Indenture. The February 10, 2009 Report of the Special Masters (the “Special Masters Report”), filed with the federal court, provided an evaluation of the legal, economic, business, infrastructure, and capital improvement issues facing the System. Since being appointed, the Receiver has devoted significant time to expanding and revising the analysis and research contained in the Special Masters Report in order to formulate both interim and long term operational and financial strategies for the System.

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<sup>1</sup> Receiver Order at 6, ¶ 17.

<sup>2</sup> *Id.* at 8, ¶ 1.

<sup>3</sup> *Id.* at 8, ¶ 3.

<sup>4</sup> *Id.*

<sup>5</sup> *Id.* at 6, ¶ 18.

<sup>6</sup> *Id.* at 8, ¶ 2.

<sup>7</sup> *Bank of New York Mellon, et al. v. Jefferson County, Alabama*, United States District Court for the Northern District of Alabama, Civil Action No. CV-08-P-1703-RDP (herein, the “Federal Action”).

**All of the Receiver's actions are guided by a single overriding goal: the establishment of a viable, sustainable, efficient utility serving the needs of the public.** The Receiver has developed short, medium and long-range business plans for the System designed to accomplish this goal. A foundational requirement for any solid business plan is the need to generate sufficient revenues to pay the costs of operations, maintenance, and capital investment and to meet the financial obligations of the business. Towards that end, the Receiver has analyzed the revenues currently generated by the System.

However, before considering the need for any additional revenue increases, the Receiver undertook a comprehensive review of the internal operations of the Jefferson County Environmental Services Department (the "ESD"),<sup>8</sup> both to determine where additional efficiencies could be achieved, and to identify areas where additional actions may be needed for proper financial, administrative, and operational performance consistent with industry best practices. Following this comprehensive operational review, the Receiver created and implemented plans to achieve the desired efficiencies and best practices.

The Receiver also directed and oversaw the preparation of long term operations and maintenance and capital investment plans and budgets to assess the level of future revenues that will be required to meet the System's obligations. The Receiver has also devoted significant time to working with the County and its various creditors groups in analyzing potential solutions to the System's debt crisis.

This interim report is intended to provide a working background of the System and the events that led to the debt crisis and the Receiver's appointment, update the Court and the public on the Receiver's activities since appointment, and outline the Receiver's interim and long term future plans for the System. This report is organized as follows:

- **Section II** provides important context for the information within this report by summarizing the history of the System, the factual and legal background leading up to the County's default, the System's current debt crisis, and the Receiver's appointment.
- **Section III** provides an overview of the Receiver's activities since appointment.
- **Section IV** contains the Receiver's interim findings as to the System's current and future revenues and expenses.
- **Section V** describes the Receiver's planned interim rate increase.
- **Section VI** contains a description of the new rate structure introduced as part of the interim rate increase.
- **Section VII** contains a description of the low-income assistance plan the Receiver intends to implement.

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<sup>8</sup> The ESD is the County department charged with operation and maintenance of the System. However, the ESD is not a separate legal entity apart from the County.

- **Section VIII** contains the Receiver's long term recommendations and a discussion of suggestions and options for a permanent solution to the current debt crisis and problems now facing the System.

## **II. Background.**

### **A. Description of the Jefferson County Sewer System.**

When the Jefferson County Sewer System was first established in 1901, it originally served only a small area in the core of the City of Birmingham. Since that time, the System has expanded to serve most of the metropolitan Birmingham area and several surrounding suburbs. The County's wastewater collection and treatment system is currently comprised of approximately 3,137 miles of sanitary sewer lines, 174 pump stations, an estimated 80,196 manholes, and nine wastewater treatment plants. The System serves approximately 478,000 people (through approximately 144,000 active accounts) in twenty-three different municipalities located in Jefferson County, unincorporated Jefferson County, and small areas of Shelby and St. Clair Counties. The approximate System service area is shown on the map below:



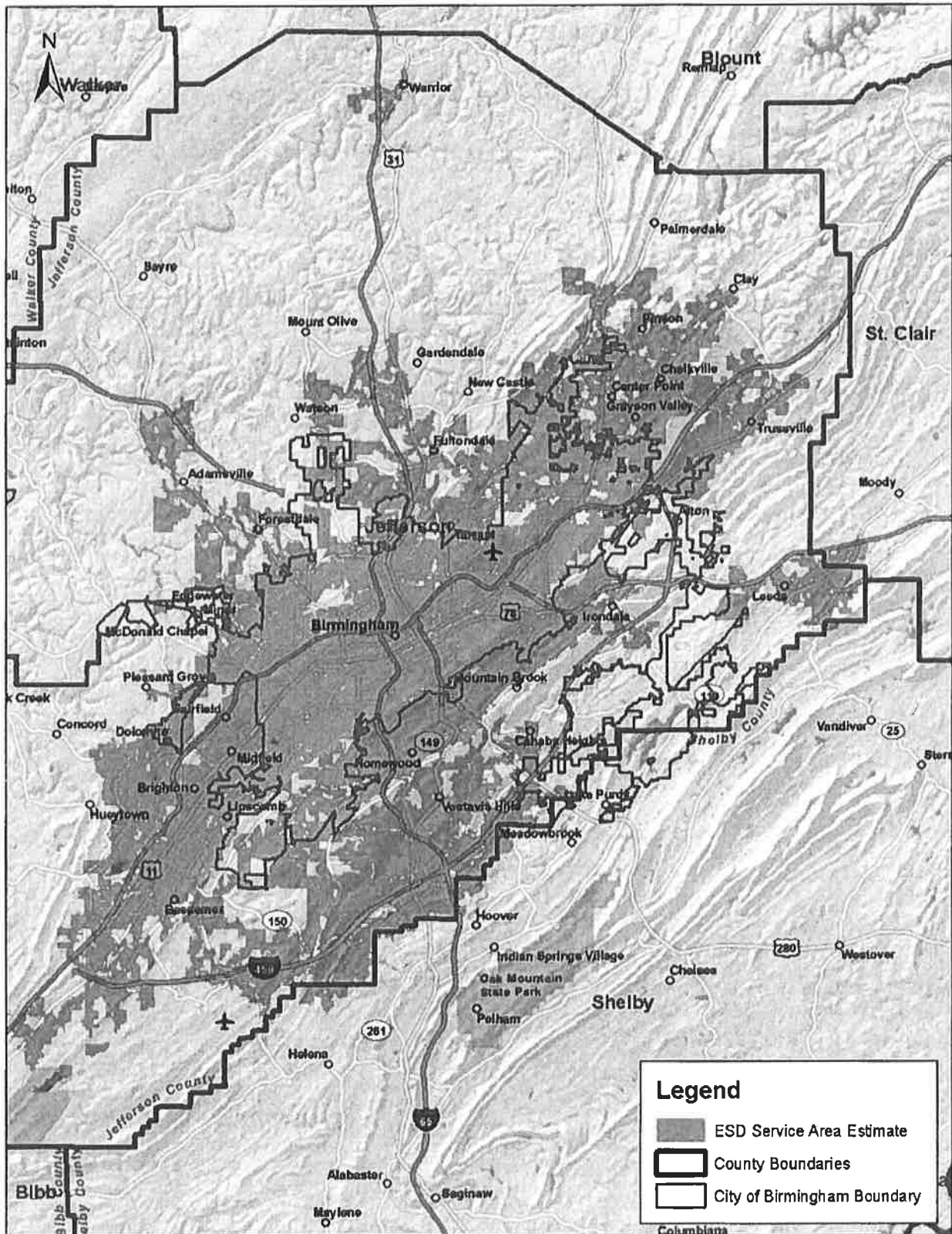


Figure 1 - Map of System Service Area

The System is divided into nine separate sewer basins: Cahaba, Leeds, Village Creek, Five Mile Creek, Prudes Creek, Trussville, Valley Creek, Warrior, and Turkey Creek. A full map detailing the sewer basins is included in the Appendix to this report at A-1.

## **B. History of the System.**

Over the past several years, much of what has been written about the System has focused on the criminal activity surrounding the financing and construction of the System improvements mandated by the 1996 Consent Decree. However, the difficulties currently facing the System are not solely the result of the construction and financing of those improvements, or any fraud surrounding that financing or construction, or even the 1996 Consent Decree itself. The beginnings of many of the core problems facing the System today can be traced back much further than 1996.

The System has a long history of financial and environmental problems that date back to its creation in the early 1900s. Many of these problems result from the longstanding and consistent failure of state and local elected officials to sufficiently fund the needs of the System. This pattern of consistent underfunding stems in part from legal, political, and structural barriers facing the System, many of which still exist today. Therefore, understanding the difficulties and challenges currently facing the System requires a clear understanding of its history.

In November 2001, the Public Affairs Research Council of Alabama published a report entitled "The History of the Jefferson County Sanitary Sewer System," (the "PARCA Report") that details, in a comprehensive and helpful manner, the history and development of the System from its creation in 1901. A copy of the PARCA Report is included in the Appendix to this report at A-2. The following sections of this report contain a brief summary of the history, highlighting those areas that provide important context to understanding the difficulties facing the System today.

### **1. *Early Beginnings 1901-1910: Divided Responsibilities and Inadequate Hookup Enforcement Hinder the Effectiveness of the New Sewer System.***

As early as the 1870s, Jefferson County began to experience health and environmental problems caused by a lack of adequate sanitation. A cholera epidemic in 1873 decimated the population of the newly-incorporated city of Birmingham, and repeated typhoid outbreaks earned Birmingham the reputation as one of the typhoid capitals of the world.<sup>9</sup> Widespread recognition of the need for a county-wide sewer system in Jefferson County to address these health and environmental problems began as early as the late 1800s, when rapid industrial development in the Birmingham area led to the incorporation of dozens of municipalities, each with their own separate sewer collection system that simply deposited the raw sewage into the most convenient watercourse.<sup>10</sup> Because the 1875 state constitution placed strict limitations on local taxing and

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<sup>9</sup> PARCA Report at 41.

<sup>10</sup> *Id.* at 9.



funding authority, an act of the state legislature was required to authorize and fund construction of a county-wide sewer system in Jefferson County.<sup>11</sup>

The necessary state legislation was passed in 1901. Act 714 designated all of Jefferson County as a sanitary sewer district and created a Sanitary Commission composed of eleven citizens appointed to oversee operation of the District.<sup>12</sup> A copy of Act 714 is included in the Appendix at A-3. The Sanitary Commission was given the duty "to protect from pollution any and all streams and water courses from which any municipality or community draws or uses in whole or in part its supply of water."<sup>13</sup>

Although the new Sanitary Commission was given the duty of protecting all water supplies throughout the county, Act 714 did not give it the necessary authority to carry out that duty. Under Act 714, the Sanitary Commission had no powers over lateral branch sewer lines (i.e., the smaller diameter lines serving residents) located within the various municipalities in the County, and the Act did not authorize the Sanitary Commission to require residents to connect their residences to the sewer system. Instead, responsibility for the sewer system under Act 714 was divided: municipalities were responsible for construction of local branch lines, and importantly, for requiring residents to connect to those local lines, and the Sanitary Commission was responsible for construction of trunk lines (i.e., the larger diameter pipes that collect wastewater from the smaller local branch lines) and for construction and operation of the treatment plants.<sup>14</sup> Under this divided responsibility structure, which continued until the 1996 Consent Decree, the County ran the treatment plants and trunk lines, but had no control over who tapped into those lines. Because municipalities were not responsible for treatment, they had little incentive to view wastewater sanitation as a major issue, which resulted in poor operation and maintenance of local collection systems and spotty enforcement of residential hookup requirements.<sup>15</sup>

Local and state officials quickly realized this divided responsibility between the County and the municipalities placed significant barriers to the establishment of an effective county-wide wastewater system. As early as 1907, state legislative records indicate widespread recognition that the System could never effectively address the County sanitation problems unless the County was given the authority to directly require residents to connect to the System.<sup>16</sup> A 1912 report on the System blamed the divided responsibility between the County and municipalities as the cause of two then-pressing problems: (1) a lack of municipal enforcement of hookup requirements; and (2) municipalities' failure to maintain and operate local collection systems in a manner sufficient to prevent infiltration of storm water into the sanitary sewer system.<sup>17</sup>

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<sup>11</sup> *Id.* at 5-10.

<sup>12</sup> *Id.* at 11.

<sup>13</sup> Ala. Act. No. 714 at § 14 (Feb. 28, 1901).

<sup>14</sup> PARCA Report at 11.

<sup>15</sup> *Id.* at 5. As late as 1906, the City of Birmingham still had not enacted a mandatory hookup requirement, even though Act 714 required the municipalities to enforce hookups and prohibit illegal discharges. *Id.* at 19. The problem of municipal failures to enforce hookup requirements was exacerbated in 1930, when the Alabama Supreme Court ruled in *City of Birmingham v. Greer*, 126 So. 859 (Ala. 1930), that the mandatory hookup requirement in Act 714 applied only to sanitary sewers, not to storm sewers. See also PARCA Report at 26.

<sup>16</sup> PARCA Report at 19.

<sup>17</sup> *Id.* at 23. Infiltration of storm water remains a problem with the System today, as discussed in more detail in Sections II.C.1 and III.B *infra*.

Throughout the history of the System, these two problems were repeatedly identified as fundamental and pressing problems preventing effective operation of the System.<sup>18</sup>

Despite this early and repeated recognition of the problem, the divided responsibility between the County and municipalities remained until the 1996 Consent Decree, which ordered the County to assume responsibility for municipal lines that had never been properly operated and maintained. During the Consent Decree litigation, the County estimated that 60% of the System's environmental problems arose from inadequate municipal sewer lines.<sup>19</sup>

By 1996, however, thousands of homes and business had been built in Jefferson County that were not connected to the sewer system. Moreover, although the 1996 Consent Decree gave the County full responsibility for the entire collection and treatment System, the Consent Decree did not give the County the necessary authority to enforce mandatory hookups to the System. As discussed in detail in Section VIII *infra*, to this day the County *still* lacks the clear authority to enforce mandatory hookups to the System, even though this authority is routine for sewer systems throughout the country, and in Alabama has been continually recognized for almost a century as absolutely vital to the effective operation and maintenance of the county-wide sewer system.<sup>20</sup>

At the same time the legislature passed Act 714 in 1901 establishing the Sanitary Commission and dividing responsibility for the new System between the County and the municipalities, the legislature also passed Act 716 to provide funds for the construction and operation of the newly-created sewer system.<sup>21</sup> A copy of Act 716 is included in the Appendix at A-4. Act 716 authorized the issuance of up to \$500,000 in bonds, and required the assessment and collection of a County-wide ad valorem tax<sup>22</sup> to pay interest on the bonds, maintain the System, and protect County water supplies.<sup>23</sup>

The County-wide tax, Act 714 and the bonds issued under Act 716 were all subsequently validated by the courts.<sup>24</sup> In validating the County-wide tax, the Alabama Supreme Court

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<sup>18</sup> For example, a 1946 report of the Jefferson County Legislative Advisory Committee known as Memorandum No. 10 concluded that the System was in a state of disrepair and grossly inadequate to serve the sanitation needs of the County. The report concluded that the divided responsibility between the County and the municipalities was partly to blame for the extremely poor condition of the System. PARCA Report at 32. A 1947 citizens' committee report on the system reached the same conclusion, and also pointed to the divided responsibility as the reason for System's problems. *Id.* at 38. Nothing significant was done to address this problem until fifty years later when the County was forced, through adoption of the 1996 Consent Decree, to address this problem. During the Consent Decree litigation in 1996, the County estimated that 60% of the System's environmental problems arose from inadequate municipal sewer lines. *Id.* at 72.

<sup>19</sup> *Id.* at 72.

<sup>20</sup> The Alabama Supreme Court recognized the importance of the power to enforce a mandatory hookup requirement in operating an efficient sewer system in *Allman v. City of Mobile*, 50 So. 238, 240 (Ala. 1909), where the court noted that "surely no sewerage system could be regarded as efficient without the incident power in the municipal corporation to compel connections of property by its owners with the system." The need for enforcement of mandatory hookup requirement for residents within Jefferson County is discussed in more detail in Section VIII *infra*.

<sup>21</sup> PARCA Report at 11-12.

<sup>22</sup> An ad valorem tax refers to tax levied on the value of real or personal property.

<sup>23</sup> *Id.* at 11.

<sup>24</sup> See *Keene v. Jefferson County*, 33 So. 435 (Ala. 1903) (upholding validity of Act 714); *Birmingham Trust &*



rejected the claim that the sewer system would only benefit those connected to it, and ruled that the sewer system provided a public health benefit to *all of the citizens of Jefferson County*.<sup>25</sup> Construction of the System, which at that time consisted of two trunk lines and two treatment plants in the central Birmingham area, began in late 1902, and was largely complete by 1906.<sup>26</sup>

The Sanitary Commission was dissolved by the state legislature in 1909, just eight years after its creation, even though the initial terms of its officers were not yet complete. Control and operation of the System was transferred to the Jefferson County Board of Revenue, then the governing legislative body of the County.<sup>27</sup>

In what turned out to be a prescient statement of the local and state politics that would later interfere with and prevent adequate planning and funding of the System's needs, a consulting engineer opined in a 1912 report on the System that this premature dissolution of the Sanitary Commission was "unfortunate." This same engineer also noted that transferring responsibility for the new System to the County's legislative body passed the System into the hands of:

a body not constituted nor chosen as to have special knowledge or interest in such subjects [as the creation of an adequate sanitary system for the County].<sup>28</sup>

The system was administered by the Board of Revenue until that body was replaced by the County Commission in 1931.<sup>29</sup>

## **2. *The First Years of Operation 1901-1947: State Approved Project-Based Bond Issuances Provide Inadequate Funding to Keep Pace with Growth.***

Following the \$500,000 bond issuance authorized in 1901 by Act 716 to fund initial construction of the core wastewater system around Birmingham, the only funding available for System operating and maintenance expenses was the annual sewer ad valorem tax. There was no mechanism at that time to generate the additional funds needed for routine maintenance, improvements or extensions to the System. Instead, before authorizing any capital improvement project, the County would seek authority from the state legislature to issue bonds to fund the project. This "one project at a time" funding approach was time-consuming, cumbersome, and vulnerable to political influence. Despite these problems, the project-based funding approach

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*Savings Co. v. Jefferson County*, 34 So. 398 (Ala. 1903) (upholding validity of bonds issued pursuant to Act 716).

<sup>25</sup> *Keene*, 33 So. at 438. The Alabama Supreme Court confirmed this principle in *Shell v. Jefferson County*, 454 So. 2d 1331, 1336 (Ala. 1984) ("[t]he entire County benefits from the sewer system.").

<sup>26</sup> PARCA Report at 16.

<sup>27</sup> *Id.* at 19-20.

<sup>28</sup> *Id.* at 20. The need for a professional board dedicated solely to the operation and maintenance of the System continues today, and is one of the reasons the Receiver supports the need for legislation establishing an independent public corporation ("IPC") to operate and maintain the System going forward. The need for an IPC is discussed in more detail in Section VIII *infra*.

<sup>29</sup> *Id.* at 26.

would remain the only funding for the System other than the ad valorem tax for almost 50 years, until the County began collecting sewer service charges in 1951.<sup>30</sup>

A few years after construction of the initial sewer system was complete, it became evident that project-based bond funding prevented the regular, systematic capital investment needed to both maintain the System and to improve and extend the System to keep pace with rapid growth within Jefferson County. As early as 1910, industrial development and rapid population growth in the Birmingham area created capacity problems with the System, even though it was only a few years old.<sup>31</sup>

In 1931, one of the first acts of the newly-created County Commission was to declare the System badly overloaded and obsolete, and adopt a resolution stating "an urgent and imperative necessity for immediate construction of an addition to the Jefferson County Sanitary Sewer System in the interest of public health."<sup>32</sup> The County estimated the necessary improvements would cost \$1.5 million. However, the County did not issue any new bonds and had to fund the new improvements entirely from funds on hand. The County ultimately appropriated only \$450,000, less than one-third of the full amount needed, and the full balance in the sanitary fund generated from refinancing the initial \$500,000 sewer construction bonds issued in 1901.<sup>33</sup> Failure to perform the necessary improvements had a negative impact on the System's ability to serve the growing needs of the County. This appropriation of less than half the estimated cost of necessary improvements would become the County's standard pattern of behavior in responding to recommendations for additional funding for the System.

Despite the increasing need for extension and improvement of the System, from 1921 to 1939, the County did not levy the full 0.5 mills sewer ad valorem tax authorized by Act 716, and, with the exception of a single \$50,000 bond issuance in 1941, the County did not issue any additional bonds to support and improve the System from 1901 until 1949.<sup>34</sup> The lack of adequate funding continually delayed and prevented necessary improvements to the System.<sup>35</sup>

Inadequate funding continued to cause deterioration of the System throughout the 1940's. The sole funding source for the System was the sewer ad valorem tax, which only generated around \$170,000 per year, barely enough to keep the System running, much less initiate improvements.<sup>36</sup> Reports issued in 1946 and 1947 concluded that the two System trunk lines put in service in 1906 had deteriorated markedly due to a lack of investment in their upkeep and maintenance, and the 1905 brick sewers had become obsolete by 1934. The entire System was in disrepair and, despite some additions, remained grossly inadequate to serve the sanitary needs of the County.<sup>37</sup> Heavy rains caused sewers to overflow into homes and businesses and sewage

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<sup>30</sup> *Id.* at 24-25, 38, 44 and Appendix D to the PARCA Report. The County gained ratemaking authority with Amendment 73, which is discussed in more detail in Section II.B.3 *infra*.

<sup>31</sup> *Id.* at 22-24.

<sup>32</sup> *Id.* at 29 (quoting County Resolution).

<sup>33</sup> *Id.*

<sup>34</sup> *Id.* at 25, 34.

<sup>35</sup> *Id.* at 24-25.

<sup>36</sup> *Id.* at 38.

<sup>37</sup> *Id.* at 32.

flowed into City streets and ditches, and at times even covered the fairways of the Birmingham Country Club.<sup>38</sup>

The structure of obtaining legislative approval for bond issuances on a project-by-project basis was of limited value when the ability to generate revenue to repay the bonds and operate the system was limited to the revenue generated by the ad valorem tax. The County needed authority to finance regular maintenance and improvements to the System on its own, without the involvement of the state legislature. The state legislature agreed and passed legislation in 1947 at the County's request to amend the state constitution to grant that authority to the County.

**3. *The Local Era 1950-1965: The County Gains Financing Autonomy from the State but Fails to Use its New Bond and Ratemaking Power to Adequately Fund the System.***

The "Jefferson County Sewer Amendment," Amendment 73 to the Alabama Constitution, was ratified by the State's voters in the 1948 general election.<sup>39</sup> A copy of Amendment 73 is included in the Appendix at A-5. This amendment allowed the County to issue general obligation bonds in an amount "not exceeding 3 percent of the assessed valuation of the taxable property" in the County "to pay the expenses of constructing, improving, extending, and repairing sewers and sewerage treatment and disposal plants."<sup>40</sup>

Despite this new financing authority, the pattern of consistent underfunding of the System continued. A year prior to ratification of Amendment 73, the County had commissioned a prominent Chicago engineering firm, Alvord, Burdick & Housen, to perform a detailed study of the System and make recommendations for needed maintenance, repairs, and improvements.<sup>41</sup> The County Commission received the final report in April 1948. The report urged immediate repairs and additions at an estimated total cost of \$22.5 million, with annual costs thereafter estimated at \$1.1 million.<sup>42</sup> The Commission referred the report to a Citizens Advisory Committee, which recommended a \$10 million bond issuance, less than half the cost of the necessary improvements, which the committee found was sufficient to fund only the most urgently needed items.<sup>43</sup> At a bond issue election in May 1949, County voters approved the \$10 million bond issue.<sup>44</sup> Even though the pressing need for repairs and improvements to the System was identified in engineering reports as early as 1946, it was 1951 before construction contracts were let and 1953 before most construction was at or near completion.<sup>45</sup>

The Chicago engineering report also recommended the County implement sewer rental or service charges as an additional source of revenue, a practice already common in other urban areas.<sup>46</sup> Although the County gained the authority to impose rates in November 1948 following ratification of Amendment 73, due to procedural and logistical hurdles, collection of charges

<sup>38</sup> *Id.* at 39.

<sup>39</sup> *Id.* at 41.

<sup>40</sup> ALA. CONST. amend. 73.

<sup>41</sup> PARCA Report at 38.

<sup>42</sup> *Id.* at 40.

<sup>43</sup> *Id.* at 41.

<sup>44</sup> *Id.* at 42.

<sup>45</sup> *Id.* at 38.

<sup>46</sup> *Id.* at 40-41.

would not begin for almost three more years, and then only for a small percentage of System customers.<sup>47</sup> The Birmingham Water Works and Sewer Board ("BWVB") refused to collect charges through residents' water bills, so the County had to create a new eighteen-employee billing department charged with the massive task of generating a customer list and inspecting and verifying connections. Because of the lack of mandatory hookup enforcement, thousands of homes and businesses throughout the County were not connected to the System. During the first two years of County billing, the billing department had to review and resolve more than 10,000 applications from residents seeking to be removed from the billing list. These difficulties continued until 1961, when the legislature passed an act requiring water utilities to collect municipal sewer charges.<sup>48</sup> These logistical hurdles prevented the County from taking full advantage of its new ratemaking authority to address continued underfunding of the System.<sup>49</sup>

By the mid-1950s, citizens began to feel the impacts of the County's failure to fully fund necessary System improvements. In 1953, the County Board of Health issued a warning to all residents of the County not to swim or fish in **any open stream** in Jefferson County because "all watersheds in this area carry pollution from sewage."<sup>50</sup> A 1953 citizens advisory committee report recognized the lack of adequate funding for the System and recommended that the Commission forego any plans for secondary treatment (i.e., chemical and other purification), focusing instead on expanding the collection system and maintaining the facilities for primary treatment only (removal of floatable and settleable solids).<sup>51</sup> This decision would later prove shortsighted when the federal Clean Water Act ("CWA") was enacted in 1972 requiring secondary treatment and imposing strict standards.<sup>52</sup>

By 1957, sewer overflows were still common and the County health officer called for immediate action to prevent outbreaks of polio, typhoid, and hepatitis. County engineers estimated that it would cost approximately \$10 million just to address the System's most pressing problems, and another \$20 million to properly address its problems.<sup>53</sup> At that time, the sewer charges and ad valorem taxes were producing System revenues of around \$1.5 million per year.<sup>54</sup> Despite these pressing needs, the County would not undertake another major bond issuance until 1968, and resisted raising sewer rates until 1972.

With Amendment 73 in 1948, the County finally had the power to raise funds for the System on its own through bond issuances and sewer rates. Unfortunately, whether for political reasons or otherwise, the County failed to use its newly granted authority, and the pattern of inadequate funding of the System continued. With each passing year, population and industry continued to grow, yet the County fell further and further behind in necessary System improvements and maintenance. Ultimately, it would take intervention from the state and the federal government, and litigation to force the County's hand.

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<sup>47</sup> PARCA Report at 44.

<sup>48</sup> *Id.* at 44-45 (discussing Ala. Act No. 886 (Sept. 8, 1961)).

<sup>49</sup> Billing remains a challenging issue for the System today, as discussed in Sections III.A.2 and III.A.3 *infra*.

<sup>50</sup> *Id.* at 43.

<sup>51</sup> *Id.*

<sup>52</sup> *Id.* at 58. The Clean Water Act is discussed in more detail in Section II.B.4 *infra*.

<sup>53</sup> *Id.* at 45.

<sup>54</sup> *Id.* at 54.